DOCUMENT RESUME

ED 149 934 RC 010 359

TITLE	Pueblo Lands and Alaska Natives Governing Bodies. Hearing Before the United States Senate Select Committee on Indian Affairs, 95th Congress, 1st Session on S. 1789, To Authorize the Secretary of the Interior to Contract with the Middle Rio Grande Conservancy District of New Mexico for the Payment of Operation and Maintenance Charges on Certain Pueblo Lands; S. 2046, To Enable Alaska Natives to Maintain and Consolidate Tribal Governing Bodies, and for Other Purposes.
INSTITUTION	Congress of the U.S., Washington, D.C. Senate Select Committee on Indian Affairs.
PUB DATE	29 Sep 77
NOTE	66p.; Not available in hard copy due to small print size of original document
EDRS PRICE	MF-$0.83 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS	Agencies; *Alaska Natives; *American Indians; *Contracts; Federal Legislation; *Fees; *Hearings; *Nonprofit Organizations; Operating Expenses; Organizational Change; Organizations (Groups); Tribes
IDENTIFIERS	Congress 95th; Middle Rio Grande Conservancy District NM; *Pueblos

ABSTRACT

Presenting congressional testimony regarding Senate Bill 1789 and Senate Bill 2046, these hearings include the texts of each bill and the statements of 12 witnesses. S. 1789 is described as a bill designed to amend the Act of August 27, 1935 (49 Statute 887) by extending the authority of the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District on behalf of the six Pueblo Indian tribes served by that district for operation and maintenance charges assessed against these tribes. S. 2046 is described as a bill designed to consolidate the many recognized American Indian and Alaska Native tribal villages, groups, and local non-profit corporations into 12 regional nonprofit corporations for Indian Self-Determination Act contracting and other purposes (the present language in the Indian Self-Determination Act recognizes 450 separate entities for contracting purposes, making efficient implementation of Public Law 93-638 and other acts very difficult). Representative testimony is presented for: Alaska Federation of Natives; Kuskowin Native Association; the Assistant Secretary of the Interior for Indian Affairs; North Slope Borough (Barrow); Association of Village Council Presidents; Bering Straits Native Association; Tlingit and Haida Indians; Cook Inlet Native Association; Angoon Indian Reorganization Act Council; Kootznoowoo, Incorporated, Angoon; Bureau of Indian Affairs; and Southwest Alaska Indian Reorganization Act Councils. (JC)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED149934

PUEBLO LANDS AND ALASKA NATIVES GOVERNING BODIES

FEB 1978
ERIC/CRESS
RECEIVED

HEARING

BEFORE THE

UNITED STATES SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

S. 1789

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONTRACT WITH THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT OF NEW MEXICO FOR THE PAYMENT OF OPERATION AND MAINTENANCE CHARGES ON CERTAIN PUEBLO LANDS

S. 2046

TO ENABLE ALASKA NATIVES TO MAINTAIN AND CONSOLIDATE TRIBAL GOVERNING BODIES, AND FOR OTHER PURPOSES

SEPTEMBER 29, 1977

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

Printed for the use of the
U.S. Senate Select Committee on Indian Affairs

U.S. GOVERNMENT PRINTING OFFICE
98-985 O WASHINGTON : 1977

SELECT COMMITTEE ON INDIAN AFFAIRS

[Created by S. Res. 4, 95th Cong.]

JAMES ABOUREZK, South Dakota, *Chairman*

HOWARD METZENBAUM, Ohio
JOHN MELCHER, Montana
DEWEY F. BARTLETT, Oklahoma
MARK O. HATFIELD, Oregon

ALAN R. PARKER, *Chief Counsel*
MICHAEL D. COX, *Minority Counsel*

CONTENTS

Bills and Departmental Report

	Page
S. 1789	2
Report of the Department of the Interior	3
S. 2046	6

Witnesses

Black, Clifford, president, Human Resources Committee, Alaska Federation of Natives	21
Prepared statement	22
Fredericks, Glenn, president, Kuskowin Native Association	60
Gerard, Forrest J., Assistant Secretary of the Interior for Indian Affairs	11
Prepared statement	13
Hopson, Eben, mayor, North Slope Borough, Barrow, Alaska, presented by Anna McAlear	58
Jack, Cari, president, Association of Village Council Presidents	30
Johnson, Charles, executive vice president, Bering Straits Native Association	25
Prepared statement	27
McNeil, Chris, Jr., second vice president, Tlingit and Haida Indians of Alaska	31
Prepared statement	34
Nataro, Joe, deputy director, Cook Inlet Native Association	61
Nease, Caroline, Angoon Indian Reorganization Act Council	56
Reckley, Gladys, Kootznoowoo, Inc., Angoon	57
Reeser, Ralph R., director, Congressional and Legislative Affairs Staff, Bureau of Indian Affairs, Department of the Interior	17
Prepared statement	18
Thomas, Edward, president, Southwest Alaska Indian Reorganization Act Councils	53

PUEBLO LANDS AND ALASKA NATIVES GOVERNING BODIES

THURSDAY, SEPTEMBER 29, 1977

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 1202, Dirksen Senate Office Building, Senator Mark O. Hatfield presiding.

Present: Senator Hatfield.

Staff present: Alan R. Parker, chief counsel; Max I. Richtman, assistant chief counsel; Barbara Berger, staff attorney; Michael D. Cox, minority counsel; Jeff Boothe, professional staff member; Peter Batzle, professional staff member; and Elva Arquero, assistant chief clerk.

Senator HATFIELD [presiding]. The hearing will come to order.

I will read a brief statement by the chairman of our committee—who is unavoidably detained—Senator James Abourezk.

STATEMENT OF CHAIRMAN JAMES ABOUREZK ON S. 1789 AND H.R. 2719, AND S. 2046

The purpose of this hearing before the Senate Select Committee on Indian Affairs this morning is to take testimony on two bills. The first bill, S. 1987 and H.R. 2719, amends the act of August 27, 1935, by extending the authority of the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District on behalf of the six Pueblo Indian tribes served by that district for operation and maintenance charges assessed against these tribes.

This water conservancy district was established in 1935 for the purpose of operating and maintaining a modern irrigation project. However, from the creation of the project, the Indians benefited by it having been unable to pay the yearly charges, and for 40 years the district has relied on appropriations from Congress to cover the Indians' share. S. 1789 and its counterpart, H.R. 2719, which already passed by the House with one minor amendment, would eliminate the need for subsequent legislation amending the 1935 act.

The second bill, S. 2046, consolidates the many recognized tribal villages, groups, and local nonprofit corporations into 12 regional nonprofit corporations for purposes of Indian Self-Determination Act contracting and other purposes.

Problems have arisen in Alaska with regard to the definition of a "tribe" for purposes of Indian Self-Determination Act contracts and the distribution of other Federal funds and services. The present language in the Indian Self-Determination Act recognizes 450 separate entities for contracting purposes. The high number of tribal organizations recognized for contracting purposes has made the efficient implementation of Public Law 93-638 and other acts very difficult.

S. 2046 is an attempt to remedy this problem by consolidating the 450 individual groups into 12 regional nonprofit corporations for governmental and contracting purposes.

I now place in the record copies of the bills, S. 1789 and S. 2046, and the report of the Department of the Interior on S. 1789.

[The bills and departmental report referred to follow:]

95TH CONGRESS
1ST SESSION

S. 1789

IN THE SENATE OF THE UNITED STATES

JUNE 30 (legislative day, MAY 18), 1977

Mr. ABOUREZK introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

A BILL

To authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act of August 27, 1935 (49 Stat. 887), as amended by section 5 of the Act of June 20, 1938 (52 Stat. 779), the Act of April 24, 1946 (60 Stat. 121), the Act of May 29, 1956 (70 Stat. 221), and by the Act of July 27, 1965 (79 Stat. 285), is further amended by deleting the words "for a period of not to exceed five years".

II

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 1 - 1977

Honorable James Abourezk
Chairman, Select Committee
on Indian Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your request for the views of this Department with respect to a bill, S. 1789, "To authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands."

We recommend that the bill be enacted.

The Middle Rio Grande Conservancy District, a political subdivision of the State of New Mexico, was created in 1927 with the objective of planning, constructing, and operating a modern irrigation and flood control project. Within the external boundaries of this District are six Pueblo Indian groups that have diverted water from the Rio Grande on an uninterrupted basis since prehistoric times. These Pueblo lands were included along with the non-Indian lands in the plans for the District in order to provide project benefits to the Indians.

At the inception of this project, the Indians were afraid that they would be unable to pay the assessments against their land for construction costs and for operation and maintenance. With the average sized farm being less than 10 acres, no significant commercial farming could be undertaken. Practically everything raised was consumed within the family. In order to go on with the project and to tie in the Indian land, Congress appropriated the money for the Indians' share of the costs of construction, and has been regularly appropriating money to cover the Indians' proportion of the annual cost of operation and maintenance.

The Federal appropriations have covered only charges assessed against the "newly reclaimed" Pueblo lands and the lands purchased

by the United States for the Pueblos. The Pueblo lands that were adequately irrigated before the project was constructed were not subject to assessment. The "newly reclaimed" Pueblo lands included 11,074.40 acres; the purchased lands included 874.059 acres; and the Pueblo lands that were adequately irrigated when the project was constructed included 8,847 acres. The total acreage benefited by the project, including both Indian and non-Indian land, is approximately 117,000 acres.

The Act of August 27, 1935 (49 Stat. 887), authorized the Secretary of the Interior to enter into an agreement with the Middle Rio Grande Conservancy District to pay operation and maintenance charges assessed against the newly reclaimed Indian lands and purchased lands for a period not to exceed five years. Under this Act two agreements were made, one dated September 4, 1936, which covered the years 1935 and 1936, and the other dated April 8, 1938, which covered the years 1937, 1938, and 1939.

Through a series of additional legislative enactments and contracts with the District, the Department continued these arrangements through 1974, after which the legislative authority and the most recent agreement lapsed.

The proposed bill would eliminate the expiration clause of the Act of August 27, 1935 (49 Stat. 887), as amended, and would preclude the need for subsequent legislation to extend the Secretary's authority to contract in behalf of the six Pueblo Middle Rio Grande Indian tribes for payment of operation and maintenance charges on lands served by the Middle Rio Grande Conservancy District. The proposed bill would simplify administrative procedures required by continuing contract renewals. Fiscal and budgetary control for these funds is achieved through the budgetary and appropriation process and not by the contract.

The last previous contract of the Secretary, through the Bureau of Indian Affairs, expired December 31, 1974. We assume that the proposed bill, S. 1789, would cover retroactively the period from January 1, 1975 to the time it becomes law.

As of this date the Pueblo Indians are still farming on a subsistence basis (crops consumed within the family and little cash income from farming), with farms averaging between 5 acres and 20 acres. The funds paid by the United States to the Conservancy District are for the purpose of operating and maintaining district irrigation facilities. The Indians

themselves, however, operate and maintain irrigation distribution systems within the Pueblos. The justification for enactment of a new authorizing statute is just as strong today as it was when the Act of August 27, 1935 was passed.

The operation and maintenance charges paid by the United States to the Conservancy District through 1973 total $1,193,179.27 for the entire 38 year period an average of a little over $30,000 per year; current charges assessable to Indians are approximately $80,000 per year. The District has carried these charges for the past two years in a deficit account hopeful of reimbursement. The total construction charges assessed against the Pueblo lands were $1,357,354.36, and that entire sum has been cancelled under the Leavitt Act (25 U.S.C. 386a).

For 40 years the District has depended on appropriations from Congress to cover the operation and maintenance costs charged against Indian lands. If the United States should discontinue these payments, the District's non-Indian interests would reluctantly have to bear the costs assigned to Indian land. Such a result would be unfair and serious friction between Indian and non-Indian farmers could result.

We therefore urge enactment of S. 1789 which would enable the continuation of the sensible and equitable arrangements which were maintained for 40 years.

We propose one technical change. In line 3 of the bill, we would delete the words "the provisions of," so that the bill reads "That the Act of August 27, 1935 .....is further amended by .....".

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Cecil D. Andrus

SECRETARY

95TH CONGRESS
1ST SESSION

S. 2046

IN THE SENATE OF THE UNITED STATES

AUGUST 5 (legislative day, JULY 19), 1977

Mr. GRAVEL (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

A BILL

To enable Alaska Natives to maintain and consolidate tribal governing bodies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with the express congressional policy of Indian self-determination, Congress hereby declares that it is its policy to recognize the express desires of Alaska Natives to maintain and consolidate tribal governing bodies and recognize their authority to designate tribal organizations.

SEC. 2. (a) Notwithstanding any other provision of law relating to or applicable to Alaska Natives, "Indian tribe" in Alaska shall mean the body of Alaska Natives represented by a Native Association, or its successor, named in

section 7(a) of the Alaska Native Claims Settlement Act (85 Stat. 688), hereinafter referred to as Alaska Regional Tribes.

(b) Except as otherwise provided in this Act, the definition of Indian tribe as stated herein shall supersede, repeal, or modify the definition of Indian tribe in all other Federal legislation relating to or applicable to Alaska Natives, when they are in conflict in whole or in part.

SEC. 3. (a) Notwithstanding any other provision of law, the governing body established pursuant to this Act by the Native Association or its successor shall constitute the preeminant tribal governing body of Alaska Natives residing in the geographic area designated in and within the boundaries established under section 7(a) of the Alaska Native Claims Settlement Act.

(b) Alaska Native Regional Tribes shall have the power to establish or recognize tribal organizations.

(c) "Tribal organization" means any legally established organization of Alaska Natives including an Alaska Native regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is controlled, sanctioned, or chartered by the governing body of an Alaska Native Regional Tribe.

SEC. 4. Qualifications for membership in Alaska Native

Regional Tribes shall be established by tribal constitution and bylaws, unless otherwise provided by law.

SEC. 5. (a) The Alaska Native Regional Tribes, at their option, may organize in accordance with the Alaska Native Reorganization Act or pursuant to a constitution and bylaws, or remain organized pursuant to any existing jurisdictional Act, or any existing constitution and bylaws adopted pursuant to the Alaska Native Reorganization Act.

(b) The Native Tribal Associations, or their successors, named in section 7 (a) of the Alaska Native Claims Settlement Act, are empowered to initially draft, adopt, and provide for ratification of the aforementioned constitution and bylaws of the Alaska Native Regional Tribes in accordance with such rules, as they may adopt.

(c) For the purposes of carrying out the provisions of this section, the Secretary is directed to grant to the Native Tribal Associations or their successors, such sums as may be necessary for organizational purposes, in accordance with section 104 of the Indian Self Determination and Educational Assistance Act, or other authorizations.

SEC. 6. (a) All rights, prerogatives, and duties held by federally recognized tribes in the contiguous States of the United States, shall accrue to the Alaska Native Regional Tribes established pursuant to this Act.

(b) Except as specifically provided by the adopted Constitution and bylaws of the Alaska Native Regional Tribes established pursuant to this Act, no powers, rights, or duties presently vested by Federal law in any Indian tribe, band, clan, village, community, or association in Alaska or any federally recognized Indian tribe within Alaska shall be abridged.

(c) Nothing in this Act shall be deemed to abrogate or change any vested property rights.

SEC. 7. The provisions of this Act shall not be applicable to, or otherwise affect, the Metlakatla Indian Community.

SEC. 8. (a) Within three months following the date of the enactment of this Act, the Secretary of the Interior shall consult with each Alaska Native Regional Tribe, or its successor as listed in section 7 (2) of the Alaska Native Claims Settlement Act in order to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

(b) Within four months following the date of enactment of this Act, the Secretary shall present the proposed rules and regulations to the Senate Select Committee on Indian Affairs and the Subcommittee on Indian Affairs and Public Lands of the United States House of Representatives.

(c) Within five months following the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiv-

ing comments from interested parties.

(d) Within six months of the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

Senator HATFIELD. We are happy to welcome Mr. Forrest Gerard, the new Assistant Secretary for Indian Affairs, Department of the Interior. With him is Mr. Ralph Reeser, Legislative Counsel, Department of the Interior.

We have your prepared testimony. We will place it in the record in full. We would be happy to have you summarize, or handle your testimony as you wish.

Mr. GERARD. Mr. Chairman, that is the procedure we would like to follow. We will present a verbal summary on both bills. Because I had previously, in a private capacity, undertaken some work for the Pueblos of New Mexico, Mr. Reeser will be the principal witness on the Pueblo bill; and I will testify on S. 2046.

Senator HATFIELD. Let's hear from you first, Mr. Gerard.

STATEMENT OF FORREST J. GERARD, ASSISTANT SECRETARY OF THE INTERIOR FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. GERARD. Thank you, Mr. Chairman.

In reading the chairman's statement, Senator Hatfield, you have already indicated the fact that the definition in Public Law 93-638 has created problems for the natives of Alaska. But, because S. 2046 would have such a profound impact on the villages, the leaders, and so on, the Department takes no position on that legislation until we have a better assessment of that impact. Also, staff discussions have revealed that the committee is planning a series of hearings in Alaska at a later date. It would be our hope also to have someone present at that time.

Following that hearing, we feel that we would be in a better position to come forth with a definite position on S. 2046. So, today, we take no position on the legislation.

But, briefly, our understanding of the bill is that it would authorize the creation of regional tribes. These organizations would be the preeminent entities or the primary organizations authorized to contract under the provisions of Public Law 93-638.

The bill provides a variety of means by which the regional tribes could organize, even including extending the Alaska Native Reorganization Act—which is really the Indian Reorganization Act—for Alaska.

The bill would further authorize the regional tribes to be recipients of the section 104 grants in the bill itself. We do have some concerns about the impact of section 6. I would like to refer to that specifically.

Our understanding of section 6A is that all of the rights, benefits, privileges, and so on accorded to federally recognized tribes in the lower 48 States would be extended to the regional tribes. However, it is unclear whether or not section 6A would repeal the civil and criminal jurisdiction that the State has assumed over native areas pursuant to a previous statute.

So, we believe that that matter would have to be clarified. We do not think that the present language does so.

Section 6B is clear in that it would preserve the rights of present village tribes until expressly altered by constitutions and bylaws of regional tribes.

Section 6C would protect existing property rights.

We think that section 7 is appropriate because its provisions do not apply to the Metlakatla Indian Community.

Finally, section 8 sets up a procedure and time schedule for implementing rules and regulations.

There is no question in my mind that this legislation, or something like it, is needed to clarify the situation in Alaska. We know that both the Bureau of Indian Affairs and the Indian Health Services have required regional groups opting to contract under Public Law 93–638 to secure the approval of the affected village groups within each region.

I am sure you are no stranger to Alaska. It is large. Its populations are widely dispersed. This is a time-consuming and expensive process for the contracting organizations. We have suggested one possible alternative that we would like to set before the committee today.

To meet this problem, the administration would like to explore the possibility of an amendment to the act that would require a notice to the village of proposed contracts and an opportunity for them to object within a reasonable period of time. We believe that either express consent or failure to object would be a basis for proceeding with the contract, but the villages would retain their present right under the act to have their services under the contract retroceded to direct provisions by the Bureau of Indian Affairs or the Indian Health Service.

We would need additional time to explore the need and the desirability of such an amendment with the Alaska Natives, with the administration, and most certainly with the committee and its staff.

This generally concludes my brief verbal summary. We would welcome any questions.

Senator HATFIELD. Thank you, Mr. Gerard.

Your prepared testimony will be inserted into the record.

[The prepared statement of Mr. Gerard follows:]

STATEMENT OF FORREST J. GERARD, ASSISTANT SECRETARY OF THE INTERIOR FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR BEFORE THE SELECT COMMITTEE ON INDIAN AFFAIRS, U.S. SENATE HEARING ON S. 2046, A BILL TO ENABLE ALASKA NATIVES TO MAINTAIN AND CONSOLIDATE TRIBAL GOVERNING BODIES, AND FOR OTHER PURPOSES, SEPTEMBER 29, 1977.

Mr. Chairman and members of the Committee, I am pleased to testify today on S. 2046.

We are not taking a position on the bill at this time because there has not been an adequate opportunity for the presentation of the views of Alaska village leaders and residents on the concept of regional tribes as set out in the bill so that we may take them into account in our assessment of the legislation. We understand that this Committee plans to hold field hearings in Alaska on S. 2046 subsequent to today's hearings. These field hearings will provide both the Committee and the Department with the means of receiving the views of Alaska Native Village people and, thus, enable us to fully evaluate the overall impacts of S. 2046. However, we would point out that the Department has concerns with the bill as drafted, and these hearings will also assist us to determine whether this bill is really the best way of meeting the needs of Alaska Natives. Therefore, we take no position at this time.

The bill is apparently intended to alleviate problems associated with the current situation where the Native villages are designated as the basic tribal entity comparable to Indian tribes in "the lower 48 States".

Section 1 of S. 2046 would declare a congressional policy "to recognize the express desires of Alaska Natives to maintain and consolidate tribal governing bodies and recognize their authority to designate tribal organizations." However sections 2 and 3(a) would seem to limit the Natives choice to regional tribes while section 6(b) would preserve the rights of currently

recognized villages, tribes, etc., in Alaska, "Except as specifically provided by the adopted Constitution and bylaws of the Alaska Native Regional Tribes" established pursuant to the bill.

Section 2 states that "Indian tribe" in the case of Alaska shall mean the twelve bodies of Alaska Natives represented by the twelve regional Native Associations named in section 7(a) of the Alaska Native Claims Settlement Act. That definition would supercede all other statutory definitions.

Section 3 provides that the governing body established by a regional Native Association pursuant to the bill "shall constitute the preeminant tribal governing body of Alaska Natives" residing within the geographic region involved. The Regional Tribes would be authorized to establish or recognize "tribal organizations". "Tribal organization" is defined to mean any legally established organization of Alaska Natives which is controlled, sanctioned, or chartered by the governing body of an Alaska Native Regional Tribe and the term includes regional and village corporations established pursuant to ANCSA.

Section 4 authorizes membership qualifications for the Regional Tribes to be established by the tribal constitutions and bylaws, "unless otherwise provided by law."

Section 5 provides that the Regional Tribes may organize, or remain organized, pursuant to the Alaska Native Reorganization Act, a constitution and bylaws, or any existing jurisdictional Act. The regional Native Associations may draft, adopt, and provide for ratification of constitutions and bylaws for the Regional tribes "in accordance with such rules,

as they may adopt. The Secretary (apparently of Interior or HEW or each of them) is directed to grant to the regional Associations, "such sums as may be necessary for organizational purposes," in accordance with section 104 of the Indian Self-determination Act, or other authorizations.

Section 6(a) states that all "rights, prerogatives, and duties held by federally recognized tribes" in other States shall accrue to the Alaska Regional Tribes. The meaning of this provision is not entirely clear but we would not interprete it as intending to divest the State of any civil or criminal jurisdiction or grant the Regional Tribes such jurisdiction as is the case with many tribes in the other States.

As indicated above, section 6(b) would preserve the rights of present villages, tribes, etc., until expressly altered by constitutions and bylaws of the Regional Tribes. Section 6(c) would preclude the bill from affecting vested property rights.

Section 7 provides that the bill does not apply to or affect the Metlakatla Indian Community.

Section 8 sets up a procedure and time schedule for the adoption of rules and regulations by the Secretary to implement the Act.

At least some of the problems that has led to the introduction of S. 2046 have to do with the problem and burden imposed on regional organizations by the PL 93-638 requirement that they obtain the prior consent of each village to be served under any proposed contract with the BIA or IHS. To meet this problem, the Administration will explore with the possibility

of an amendment to that Act to require notice to the village of proposed contracts and an opportunity for them to object within a reasonable time. Either express consent or failure to object would be a basis for proceeding with the contract but the villages would retain their present right under the Act to have their services under the contract retroceeded to direct provision by the BIA or IHS. We will need time to explore the need and desirability of such an amendment with Alaska Natives and within the Administration.

This concludes my prepared statement. I will be pleased to answer any questions the Committee may have.

Senator HATFIELD. Mr. Reeser, would you care to comment in tandem at this point on this bill, and then we will go to the other?

Mr. REESER. I have nothing to add on that bill, Senator.

Senator HATFIELD. Then please proceed.

STATEMENT OF RALPH R. REESER, DIRECTOR, CONGRESSIONAL AND LEGISLATIVE AFFAIRS STAFF, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. REESER. Thank you, Mr. Chairman.

Senator Abourezk's opening statement laid out the facts very well, so I will not read my prepared statement which would just repeat that.

We support enactment of either S. 1789 or H.R. 2719.

The current practice under the law involved is that every 10 years Congress reauthorizes contracting to pay the operating costs of the Indian portions of the project involved. The bill would make that authority permanent so we would not have to come back every 10 years.

Senator HATFIELD. Do you feel that that would be a better procedure than trying to put the questions to you at this time?

Mr. GERARD. We would like to follow that procedure and to work closely with the committee staff. We are anxious to hear the testimony of the native people and would like to defer to their presence here today.

Senator HATFIELD. Very well. We will then followup with these questions. We will depend upon you to respond to them for the record.

Mr. Reeser's prepared testimony will be inserted into the record.

[The prepared statement of Mr. Reeser follows:]

STATEMENT OF RALPH R. REESER, DIRECTOR, CONGRESSIONAL AND LEGISLATIVE AFFAIRS STAFF, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR BEFORE THE SELECT COMMITTEE ON INDIAN AFFAIRS, U.S. SENATE HEARING ON S. 1789 AND H.R. 2719, SIMILAR BILLS "TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONTRACT WITH THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT OF NEW MEXICO FOR THE PAYMENT OF OPERATION AND MAINTENANCE CHARGES ON CERTAIN PUEBLO INDIAN LANDS", SEPTEMBER 29, 1977.

Mr. Chairman and members of the Committee.

I am pleased to testify in favor of enactment of either S. 1789 or H.R. 2719 which are essentially identical bills.

S. 1789 and H.R. 2719 would amend the Act of August 7, 1935 to provide permanent authority for the Secretary of the Interior to contract for the payment of operation and maintenance charges on Pueblo Indian lands served by the Middle Rio Grande Conservancy District. The Congress has extended the authority for such contracts on four occasions the most recent of which extended the authority to December 31, 1974.

The Middle Rio Grande Conservancy District, a political subdivision of the State of New Mexico, was created in 1927 with the objective of planning, constructing, and operating a modern irrigation and flood control project. Within the external boundaries of this District are six Pueblo Indian groups that have diverted water from the Rio Grande on an uninterrupted basis since prehistoric times. These Pueblo lands were included along with the non-Indian lands in the plans for the District in order to provide project benefits to the Indians.

At the inception of this project, the Indians were afraid that they would be unable to pay the assessments against their land for construction costs and for operation and maintenance. With the average sized farm being less than

10 acres, no significant commercial farming could be undertaken. Practically everything raised was consumed within the family. In order to go on with the project and to tie in the Indian land, Congress appropriated the money for the Indians' share of the costs of construction, and has been regularly appropriating money to cover the Indians' proportion of the annual cost of operation and maintenance.

The Federal appropriations have covered only charges assessed against the "newly reclaimed" Pueblo lands and the lands purchased by the United States for the Pueblos. The 8,847 acres of Pueblo lands that were adequately irrigated before the project was constructed were not subject to assessment. The "newly reclaimed" lands and the purchased lands amounted to some 11,948 acres of the approximately 117,000 acres of Indian and non-Indian land benefited by the project. Current charges which would be paid under the contract authorized by H.R. 2719 amount to about $80,000 per year.

As of this date the Pueblo Indians are still farming on a subsistence basis, with farms averaging between 5 acres and 20 acres. The funds paid by the United States to the Conservancy District are for the purpose of operating and maintaining district irrigation facilities. The Indian themselves, however, operate and maintain irrigation distribution systems within the Pueblos. The justification for enactment of a new authorizing statute is just as strong today as it was when the 1935 Act was passed.

For 40 years the District has depended on appropriations from Congress to cover the operation and maintenance costs charged against Indian lands. If the United States should discontinue these payments, the District's non-Indian interests would reluctantly have to bear the costs assigned to Indian

land. Such a result would be unfair and serious friction between Indian and non-Indian farmers could result.

We therefore urge enactment of S. 1789 or H.R. 2719 which would enable the continuation of the sensible and equitable arrangements which were maintained for 40 years.

This concludes my formal statement. I will be pleased to respond to any questions.

Senator HATFIELD. We will now turn to the first witnesses on S. 2046. I would like to invite at this time Mr. Charles Johnson and Mr. Clifford Black to the table.

Gentlemen, if you have written testimony, we will be very happy to receive it for the record. I would invite you now to summarize or to highlight your testimony if you desire.

STATEMENT OF CLIFFORD BLACK, PRESIDENT, HUMAN RESOURCES COMMITTEE, ALASKA FEDERATION OF NATIVES

Mr. BLACK. Mr. Chairman, I am Clifford Black.

I did submit written testimony. I was going to read some of it to you, but I will not. I listened to Assistant Secretary for Indian Affairs Forrest Gerard's statement. I am very much intrigued by his very novel and probably very fruitful approach. I think it is commendable.

I am sorry he did not take a more forthright stand on the bill because it is a bill to clarify and to rectify many ominous situations we have in Alaska.

I would also like to elaborate on our activity with the State of Alaska. I recognize this did create an initial problem. However, we did meet with the State of Alaska, the attorney general and his staff. We did also agree to write into the language in the bill that the public law would not be infringed upon by this enactment.

They are comfortable with that. I do not know whether they are testifying here today or not. But that was the last reading we had from them. They were comfortable with the change in the lanuage.

I have full confidence that this committee will do a very thorough job in eliciting the opinions of the villages in Alaska and will assist us in the long run in making this information available to more people and assist us in the overall rectification of the major problems.

That is all I have, sir.

Senator HATFIELD. Thank you, Mr. Black.

Without objection, your prepared statement will be inserted in the record.

[The prepared statement of Mr. Black follows:]

TESTIMONY OF CLIFFORD A. BLACK, PRESIDENT, HUMAN RESOURCES COMMITTEE, ALASKA FEDERATION OF NATIVES BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, SEPTEMBER 29, 1977.

Mr. Chairman, members of the Committee, I am Clifford A. Black, President, Alaska Federation of Natives, HRC, I personally thank you for this opportunity to testify--and on behalf of the many who feel troubled and disenfranchised by recent actions and the Bureau of Indian Affairs (BIA) in Alaska, also, thank you. It is a privilege and a pleasure to speak on their behalf. I first spoke on this legislation as Chairman of the regional non-profit associations, in July of this year. At this time I speak as their President, recently elected, and I am honored and gratified that my first address as President, is related to what I consider the most important legislation to ever be addressed by the Alaskan Native people: the Tribal Governing Bodies legislation; at this time, S. 2046.

The significance of this legislation is tantamount to the continued recognition of Alaskan Natives in the area of special Federal involvement. This special relationship is absolutely necessary, if there is to remain a cultural and social structure representing this country's aboriginal peoples.

The passage of the Alaska Native Claims Settlement Act signalled a new era in the lives of our Eskimos, our Aleuts, and our Indians. It irrevocably and in my mind, unconscionably, thrust our people into what is commonly referred to as the "dog-eat-dog world of enterprise." Our leaders met the challenge and dedicated their time and energy to this new, unfamiliar endeavor. The role of advocate and deliverer of human services was not forgotten by these leaders, but the mandates of the act required them to direct their energies toward new economic enterprises; leaving the roles of advocate and the deliverer of human services to a fledgling group of dedicated and energetic replacements, called the regional non-profit associations. These new entities, hardly formed, were able to perform, in the words of Deputy Commissioner of Health and Social Services for the State of Alaska, Dr. Fred McGinnis, "miraculous achievements", with the

limited resources at their disposal. Dr. McGinnis went on to state that he felt the regional non-profits delivered, for dollar expended, better services than the State, under comparable circumstances, was able to deliver. It should be noted that Clarence Antioquia, the BIA Area Director, admitted during a meeting in Anchorage, this past summer, that for dollar expended, and this is in our taped minutes, the regional non-profits provided a better service than the BIA was able to provide. I submit to you, the Select Committee for recognition of Indian self-determination and evaluators of Indian self-achievement, that this is truly a measure of real success: we are recognized as doing a better job than both the State and Federal governments in our own State, Alaska.

With respect to the State of Alaska, we have involved them in our discussions from concept development until the draft stages. The State of Alaska expressed the concern that we may be addressing jurisdictional authority and processes in our proposed legislation. Subsequent to that expression, we agreed to incorporate language in the bill's final form simply stating that we are in no manner trying to infringe on the State of Alaskas jurisdictional rights under the State's constitution.

Public Law 93-638 was heralded as the answer to our collective prayers: we would at last see and feel and be a part of self-direction. Self-determination would become the byword of the day and true involvement would become the order of the era. This was unfortunately not to be the case: we were to realize a major setback. We were quickly rocked back into reality, by the BIA Area Office's edict; that their arbitrary rulings in prioritization of who could in fact contract with the Bureau, did not include these recognized regional entities. We were not included in the ranking of eligible organizations. First, in the BIA order, was the village IRA council; second, the traditional village council; third, the village profit corporation; and fourth, the regional profit corporation. Obviously, the voice of those involved in the delivery of advocacy and human services was not included. This in my opinion, was not an oversight. It was absolute recognition: it was the highest form of flattery, to exclude

us from participation. In essence it said, they recognized where the power of the people lay; it is an organized and unified voice they were trying to negate;--by our non-involvement in direction and control of how they, the BIA, would institute and direct the Indian Self-determination and Educational Assistance Act.

Our request is basic: we ask that you, the Senate Select Committee on Indian Affairs, back our legislation. We ask that you support the Tribal Governing Bodies legislation and thereby support unified vocalization, implementation, and managment of Alaskan Native affairs in the State of Alaska.

Without your support we will never see this enactment, developed in the spirit of self-determination, function in our State. In the same context, we will never see ourselves direct our own destiny.

I submit to you, we have not had an opportunity to become involved in our own self-direction. I respectfully request that you grant us an opportunity to show you what we can do, under the spirit of self-determination: under a meaningful involvement with Public Law 93-638. We will attempt to prove that officials in high State and Federal offices are not only correct in their comments (that we can deliver better services for the dollars expended) but that we are also right and proper in our desire to provide the necessary services to our populace, while at the same time preserving the cultural and social identity of our people.

STATEMENT OF CHARLES JOHNSON, EXECUTIVE VICE PRESIDENT, BERING STRAITS NATIVE ASSOCIATION

Mr. JOHNSON. Mr. Chairman, my real name is Toomungnik Towaughik; but my American name is Charlie Johnson.

I have submitted written testimony. I will not read it. I will just highlight it.

I am the executive vice president of the Bering Straits Native Association. Our service arm is Kawerak, which means the people from our area. We are often confused with the Bering Straits Native Corporation, which is a corporation enacted by the Alaska Land Claims Act.

Our association is a tribal federation that is formed by the villages of our region. I have been instructed by that board to speak out on behalf of this bill. To us, this bill means more than just contracting. We are, in our region, 85 percent Eskimo; yet, we do not control our economy, our education, or our natural resources.

We feel that this bill provides us an avenue to exercise some self-determination. As it is now, we have no real voice in the activities either by the State or the Federal agencies that really affect us.

The State right now is talking about doing things in our area that will have a major impact on our lifestyle. While they solicit our opinions as individuals, we really have no one voice to represent us. We feel that this bill affords us and gives us an avenue to speak as a united people.

We are now under pressure to change our lifestyle. Our lifestyle is predominantly and almost exclusively subsistence. We are under continuing pressure to change our lifestyle into the cash economy. Yet, that cash economy cannot be maintained without a massive infusion of Federal and State tax dollars. We feel that we must have some voice in our future. We are not asking for repayment of anything that we have already lost.

What we are asking for is a way to maintain and preserve what we now have.

Another point that the Bering Straits Native Association feels very strongly about is the preservation of village autonomy and village rights. We feel that the bill itself does protect those rights. However, we would like to see some specific language to that because, as we have seen in the past, unless the Secretary of the Interior and HEW are specifically instructed on protection of our rights, the rules and regulations that are drafted often circumvent the intent of the legislation.

So, we, from the Bering Straits, are in general support of this legislation. We are just asking that all rights be protected. We are asking that all dissenting voices be listened to. There will be some dissent. But I think that this bill provides the opportunity to take into consideration that dissent.

We are asking that any problems that are local or regional or within the State be handled up in Alaska. I think that this bill provides that opportunity. We can work out our own differences and not have to have an all-out struggle that would really affect our future detrimentally.

Thank you for this opportunity.

Senator HATFIELD. Thank you very much, Mr. Johnson and Mr. Black.

Mr. Johnson's entire prepared statement will be inserted into the record, without objection.

[Mr. Johnson's prepared statement follows:]

TESTIMONY TO THE

SELECT COMMITTEE ON INDIAN AFFAIRS

Prepared by

Charles Johnson
Executive Vice President, Kawerak, Inc.
September 29, 1977

Mr. Chairman, I am Toomungnik Towaughik, Charles Johnson. I am Executive Vice President of Kawerak, Inc., the service arm of the Bering Straits Native Association. I have been instructed by the executive board of Kawerak to speak on the issue of tribal definition and express that governing body's support for the legislation that has been introduced by Senators Gravel and Stevens.

The Bering Straits Native Association is composed of representatives of nineteen (19) villages in the Bering Straits Region. This association has formed itself as a tribal federation to concentrate its effort toward self-determination. This is a federation formed by the free will of the villages of our region. Please do not confuse it with the Bering Straits Native Corporation which was formed for business purposes and land conveyance under the Alaska Native Claims Settlement Act.

Our federation is not recognized by the Federal government because of the multiplicity of standards and definitions and the bureaucratic self-serving rules and regulations of contracting and granting agencies. Yet we are expected to serve as a tribal service delivery system by these agencies and by our constituents. We are forced to go through a costly and repetitious process of resolution gathering by the agencies that are mandated by law to provide services. S. 2046 will resolve this problem.

Our region is 85% Eskimo. We do not control our economy, our education system or our natural resources. Congress passed an act that was supposed to grant us some self-determination. We cannot exercise this self-determination under the present system for there is no recognized tribal body to advocate on our behalf. I am talking about more than just contracting for federal and state programs.

Our people are largely dependent on subsistance activity. Our lifestyle has been perfected over thousands of years and is best suited for our climate. We are now under massive pressure from invading state and federal bureaucracies to abandon our lifestyle and join the glorious cash and credit system of the Europeans who now dominate most of what once was ours.

The State of Alaska in continuing to develop the lands and coastal areas, is forming state boards that solicit us as individuals but not as a people. Interestingly at the same time the state has also admitted at the meetings in Washington, DC in July that the non-profits are a better mechanism for delivery of services and advocacy than the state could be.

There is impending development of offshore oil. How do we deal with it as a people? Are we again to be ripped off as in the gold rush? How do we benefit from this or better yet how do we keep what is left of our culture and lifestyle?

The state is proposing to build roads into our region. The roads and the influx of "sportsmen" and trophy hunters will deplete our game just as they have everywhere else in the world. This will further force us into the cash and credit way of life that can only be maintained by massive and continuing infusion of tax dollars. So the state and federal government is forcing us into their lifestyle and paying dearly to make us white. The great Indian poet Ed Edmo ended one of his poems with the lines "....You speak of your great melting pot, but why must the pot always melt white?"

We are not asking for what we have lost. We are not even trying to prevent the non-Natives from getting what they want from our region. We are only asking that we be allowed to participate in the decisions that affect our people. This bill will allow us that right.

There undoubtably will be dissenting voices from Native people who will oppose all or portions of this bill. This is to be expected and they should be listened to. But do not let the welfare of the Native people be undermined. The bill itself allows us a process to take into account the opinions of our people and it is the vehicle for them

to really have an effective voice.

As I stated our association is composed of village representatives. One of our priorities is the preservation of village life and autonomy within a tribal structure. We are afraid that unless that issue is specifically addressed that the rights of the villages will be overlooked in any rules and regulations put forth by the Bureau of Indian Affairs (BIA). We think we are covered by this bill but we want to make sure that the authority of any new tribal government grows from the people, that villages' rights are protected and that there is a mechanism to change for the better any tribal body to fit our region and our needs.

We do not want to see too much latitude granted the BIA in rule and regulation drafting for we are afraid that they may circumvent the intent just as they have with Public Law 93-638.

The Bering Straits Native Association supports this bill for it is the only way open to us to remain a unique people. That is to the benefit of the non-Natives as well as to us.

Thank you.

98-985 O - 77 - 5

Senator HATFIELD. I call now Mr. Carl Jack, representing the Association of Village Council Presidents.

Mr. JACK. Thank you, Mr. Chairman.

The written statement from the Association of Village Council Presidents will be submitted within 30 days. However, I will make some preliminary statements in general support of the passage of the bill.

STATEMENT OF CARL JACK, PRESIDENT, ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS

Mr. JACK. Thank you, Mr. Chairman.

I am Carl Jack. I am the president of the Association of Village Council Presidents. We are a regional, nonprofit organization representing some 57 villages. We encompass an area of some 89,000 square miles in southwestern Alaska. That area is generally known as the Yukon Delta. Within that region, we have a general population of some 50,000 people.

Gentlemen, it is indeed an honor to testify before this committee on S. 2046, a bill to enable the Alaska Natives to maintain and consolidate tribal governing bodies. The passage of Public Law 93-638 entitled Indian Self-Determination and Educational Assistance Act, established congressional policy not only to recognize the desires of Native Americans for self-government but it also mandated the Secretary of the Interior to respond to the specific requests from the Native Americans for self-government and subsequent reaffirmation of their tribal sovereignty.

This specific legislation, however, did not delineate by what manner tribal sovereignty would be exercised by the Alaska Natives other than to define that each village in Alaska with more than 25 people is a tribe.

In my region, under the current law, Public Law 93-638, there are in fact some 114 tribes, all of which can exercise contracting options directly with the Bureau of Indian Affairs and Indian Health Service.

Mr. Chairman, I do not think that I need to reiterate the many problems that have been expressed by the Alaska Natives during the hearings which were held on September 4-5 in Juneau, Anchorage, and Bethel. There are problems associated with the statutory definition of tribes under Public Law 93-638 as it relates to Alaska.

I submit to you that the problems as expressed before have not changed. Any concrete resolutions of substantive nature have not taken place. For example, the Association of Village Council Presidents—in order to be in a posture of negotiating a contract with the Bureau of Indian Affairs to provide the human services to the member villages during the last 6 months at least—spent some $16,000 to secure tribal consent from the village IRA or traditional councils. The expenditures incurred did not encompass all of the villages. This, in effect, I assume is true for all the regions that wish to contract under Public Law 93-638 and have to follow the consent provision as currently spelled out or required under Public Law 93-638.

In a major effort to clarify the tribal definition, we have before us S. 2046 which we feel could clarify many of the problems faced by the native organizations in Alaska, those that are named under section 7A of Public Law 92-203 which is entitled the Alaska Native Claims Settlement Act.

The Association of Village Council Presidents goes on record in support of the passage of S. 2046 provided that section 2A, section 2B, section 3A, section 4, section 5 A and B are retained in the act.

However, with respect to section 3B, section 3C, section 5C, section 6 B and C, the Association of Village Council Presidents withholds reservations on these specific sections until such position is determined by the Association of Village Council Presidents board of directors and the member villages.

The reservations that the Association of Village Council Presidents have is that there must be some language change in the bill to basically protect the democratic process of self-government at the local level. Second, the AVCP is to take cognizance of the constituent village.

It is not the wish of the Association of Village Council Presidents to repeal or supersede the status of the IRA councils in the villages but to insure that the rights that are inherent are protected in the constitution and bylaws, as mandated under the proposed bill.

That, Mr. Chairman, is the extent of my verbal testimony. The written testimony will be submitted within 30 days.

Senator HATFIELD. Thank you, Mr. Jack.

Considering the impact on the native villages that this bill would have or as you interpret it: Would you support an amendment to the bill that would provide for a referendum in each village as to whether or not they wish to remain in the present definition of Indian tribe?

Mr. JACK. Mr. Chairman, we are currently doing further analysis of the bill. The Association of Village Council Presidents will only take a position at such time as we have further analyzed the bill. The board of directors is still deliberating, and we have to consult the member villages on that.

Senator HATFIELD. You will have an opportunity to do that and then let us know what response you receive?

Mr. JACK. That is the intent, Mr. Chairman.

Senator HATFIELD. Thank you very much, Mr. Jack.

I would like to call Chris McNeil now.

STATEMENT OF CHRIS McNEIL, JR., SECOND VICE PRESIDENT, TLINGIT AND HAIDA INDIANS OF ALASKA

Mr. MCNEIL. Mr. Chairman, my name is Chris McNeil. I am the second vice president of the Tlingit and Haida Indians of Alaska.

The Tlingit and Haida Indians of Alaska is a federally recognized Indian tribe created pursuant to the 1935 jurisdictional act in which the Tlingit and Haida pursued claims against the Federal Government.

I think what we are here today to discuss, Mr. Chairman, is: What is an Indian tribe in Alaska, who is an Indian tribe, and what legal powers ought to be vested in them.

A lot of these problems regarding the definition of an Indian tribe have arisen pursuant to the implementation of the Indian Self-Determination Act. We have had quite a bit of testimony about the problems created by that implementation. I will just go over a couple of them in summary.

I think that one of the problems of the implementation is the power of the Bureau of Indian Affairs over Alaska Natives has increased rather than decreased. For one thing, I think that Public Law 93-638

has given wider discretion to the Bureau. Second, in the course of the limited contracting that has gone on, the Bureau as a bureaucracy, has not decreased.

We have had incidents whereby supposedly a program was contracted out, yet the same program continues to exist in the BIA. So, in effect, you have got two programs.

The second thing that I think is a consequence of the implementation is that the political authority of existing tribes, like the central council, has been undermined. I think that we are concerned with this, and it points out that we are not just concerned with contracting per se; that is, whether or not the central council is a regional tribal governing body or whether the villages get funds under the Self-Determination Act. We are concerned with the ability of our central council to represent all the Tlingit and Haidas regarding their interaction with the Federal, State, and local governments. That is a key issue to us.

The third problem is that the implementation has caused really onerous organizational, political, and financial burdens on the regional tribes who have tried to contract under the provisions of the act.

Another problem is that there has been a vast spillover effect of the ambiguity and conflict which have arisen under who is an Indian tribe under the Self-Determination Act. That is, other Federal agencies now are in kind of a quandary about who to recognize as an Indian tribe for the purposes of the allocation of Federal program resources in Alaska. So, you have a burgeoning problem now rather than one that is limited only to the BIA contracting process.

I think, moreover, one of the larger problems is just a matter of instability and uncertainty over the relationship between Alaska Natives and the Federal Government. I think, no matter how we resolve this problem, that there must be some final solution and that we must come to a solution which provides certainty and which structures that relationship.

I think S. 2046 is an attempt to resolve some of these problems. I think that some of the goals that one ought to pursue are, first, that we need an objective and, as economically as possible, a delivery system for the Federal services. Second, I think we would like to have allowed the existence of political institutions which are able to effectively represent the interests of the Alaska Natives. This is one of the key issues to us. In terms of the political process, you really have to have resources and organizational capacity to represent the interests of the people.

If, in effect, there would be 225 Indian tribes in Alaska after the full implementation of the Self-Determination Act, that would really constitute a massive fragmentation of the possible political influence of the Alaska Natives. I think that is a great problem for us.

Second, as I said before, I think we should have certainty and stability in relationships. Also, I very much believe that, however a bill such as S. 2046 is implemented, it should in fact be a democratic and representative body.

I would like to comment generally on S. 2046 insofar as the way I see it operating. First, I do not really see it as an expansion of any presently existing legal powers. I think it is a reaggregation of powers that presently exist. That is, these are the selfsame powers that

presently exist in the Indian Reorganization Act organizations and also powers which have been ascribed to the Tlingit and Haida Central Council as a consequence of its jurisdictional act.

There was a problem, however, which has been mentioned. That is with respect to Public Law 83-280. I believe that this problem should be solved with some specific language or proviso. I would recommend that the language in my written testimony be adopted. That is, "provided that nothing in this title shall repeal or otherwise affect Public Law 83-280." That would make it fairly clear that the act is not intended to repeal the mandatory criminal and civil jurisdictions granted to the State of Alaska under the Federal statute.

There is no doubt that the implementation of the law such as S. 2046 would require the accommodation of various interests. We have, of course, the interests of the Alaska Native regional groups, the State of Alaska, the Federal bureaucracy, and the local communities.

I think, basically, the biggest concern of accommodation is between the individual communities and the proposed regional tribes. These interests could be balanced. If there is ambiguity in the present language, I think what is intended by the language is, first, that there should be an option of whether or not to adopt this structure in the first place. So it would not be a mandatory thing that was a requirement in any given regional area.

Second, even given an adoption, I think that the language should—and I think it does impliedly—allow each area to have the opportunity to decide, on a regional basis, how they would allocate their political authority. That is, some areas might choose to allocate a lot of their authority to the regional tribe. Other areas may wish to ascribe or vest authority at the local level.

I think that that is something that would be very possible. If there is any ambiguity, that ambiguity could be clarified in the language here to allow the maximum amount of flexibility to accommodate the really diverse interests in Alaska.

Finally, as I mentioned before and I would like to restate, it is not just a matter of contracts and grants. On a local level, we can come to some accommodation over that as between the regional and the community level over the allocation of those resources.

The overriding issue is the capability of the regional area to represent itself politically and all of its constituents and be able to create or maintain political structures in which the local people can be able to resolve their internal differences and still have an organization which represents them.

If you have any questions, I would be happy to answer them. That concludes my statement. Thank you.

Senator HATFIELD. Mr. McNeil, would you describe for the record the system of representation that you now use from the village to the association?

Mr. MCNEIL. In the Tlingit and Haida Central Council, there is a regularized procedure for representation on each community level. We have 19 communities, both within and without Alaska, which are recognized by the tribe. We have a procedure in which there is voter registration and verification of eligibility.

Each eligible member votes for the delegates which are allocated proportionally according to population. These delegates, in turn, repre-

sent their communities at an annual convention which makes resolutions and motions which are binding upon the central council. That is, the communities in effect are clearly represented in the proceedings of our governing council.

In the interim period when there is not a convention, there is an executive committee consisting of seven people elected by the delegates to act on behalf of the convention during the course of the year. They are limited in what they can do insofar as anything that the convention passes is binding upon that executive committee. That is, they cannot do anything that the convention tells them not to.

Senator HATFIELD. Is your system unique, or is it rather widely practiced, as you have just described it, among the other groups?

Mr. MCNEIL. You mean among the other 11 regional groups?

Senator HATFIELD. Yes.

Mr. MCNEIL. To the best of my knowledge, each regional association which was recognized or listed in section 7A of the Native Claims Act has a thoroughly representative and democratic process. I believe that is implied in the language of S. 2046, but I think there have been some people who have been uncomfortable with it. One of the things that might be done is to make it explicit that there is a requirement of representation and democratic process in these institutions.

Senator HATFIELD. How would you respond to a proposal to amend the bill to provide for a referendum in each village? I propounded this question—you perhaps heard—to Mr. Jack.

Mr. MCNEIL. That is a distinct possibility. In any event, what we do should be final. I do not think that the instability of the relations between the Federal Government which has arisen out of this should continue.

That is certainly one possibility which, in fact, may be quite viable.

Senator HATFIELD. Thank you very much, Mr. McNeil.

Mr. MCNEIL. Thank you, sir.

Senator HATFIELD. Your entire prepared statement will be inserted in the record.

[The prepared statement of Mr. McNeil follows:]

OUTLINE AND ANALYSIS OF S. 2046

TESTIMONY BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS.

Chris McNeil, Jr.

Tlingit and Haida Indians of Alaska

September 29, 1977

My name is Chris McNeil, Jr. and I am the Second Vice-President of the Tlingit and Haida Indians of Alaska. I would like to thank you for this opportunity to again testify before the Senate Select Committee on Indian Affairs on the subject of Alaska Native Regional Tribes.

Unfortunately, the major problems concerning the implementation of the Indian Self-Determination Act and the relationship between the Alaska Natives and the federal government have not been resolved through the administrative processes. The problems are multifaceted and complex, but the key issues concern what is an Indian Tribe in Alaska, who shall be considered an Indian Tribe in Alaska, and what rights and duties shall be vested in them.

The problems which have arisen as a consequence of the implementation of the Indian Self-Determination Act in Alaska have been elaborated in considerable detail in previous Senate hearings in Alaska and in Albuquerque, New Mexico last June. I am quite sure that the Committee will receive further elaboration here today. Therefore I shall highlight only what I consider the critical factors deomonstrating the need for legislation such as S. 2046 and allocate the remainder of time to analyze the intent and implications of the enactment of S. 2046 as presently drafted.

There is one thing of which there is no doubt and widespread consensus. That is, there are serious problems in the

of implementation of the Indian Self-Determination Act in Alaska and other federal programs which use an "Indian Tribe" as the basis for allocating resources. The principal difficulty is to determine who is an Indian Tribe and what legal powers ought to be vested in them. Whatever statutory or administrative decisions are made in this area will in turn determine who has the right to contract and receive grants under the Indian Self-Determination Act and who has the right to represent Alaska Natives. In other words, decisions in this area will implicate the entire Alaska Native/federal relationship.

The initial problem arose over technical language ambiguities in the definition of an "Indian Tribe" in the Indian Self- Determination Act as it is applied to Alaska and the subsequent narrow, literal, and shortsighted attempted implementation of that law by the Juneau Area Office of the BIA. The legislative history of the Indian Self-Determination Act clearly indicates that Congress intended to provide an effective statutory mechanism to accomplish true Indian Self-Determination. This Act is a true landmark in federal/Indian relations. Yet Congress' commendable goals have been thwarted by a recalcitrant Bureau of Indian Affairs.

I shall not confuse the issue by questioning the motives of Bureau of Indian Affairs official; instead, I shall focus attention on the consequences of the BIA implementation of PL 93-638. The BIA decisions have resulted in the following:

- BIA influence and power over Alaska Native affairs has increased rather than decreased inspite of the fact that Congress intended just the opposite effect.

- Alaska Natives' political authority has been undermined both with respect to its relations with the federal government and internally.

- the Alaska Native Regional Associations which have sought to contract for services under PL 93-638 have been faced with onerous organization, political and financial burdens in order to comply with the Area Director's interpretation of the Act and it's regulations.

- effective and timely contracting with Alaska Natives has been difficult, if not impossible.

- the BIA implementation of the Indian Self-Determination Act has caused an extra quantum of internal political conflict and dissent among Alaska Natives.

- there has been a spillover effect into other areas whereby other federal agencies besides the BIA and IHS now question who is an Indian Tribe in Alaska for the purposes of eligibility for their programs.

- there is not instability and uncertainty among Alaska Natives regarding the future viability of Alaska Native associations and tribes.

- there is now confusion over what, in addition to who, is an Indian tribe.

Because of the pervasive nature of these problems and the strong sense that these are in fact the critical problems, what we ought to be primarily concerned about is the structure and components of the legislation to resolve these difficulties.

GOALS FOR INDIAN SELF-DETERMINATION IN ALASKA

Given the kinds of problems which have just been outlined, I suggest the following as goals in order to provide for

effective Indian self-determination in Alaska:

- provide for an effective system of delivery of social services to Alaska Natives, whether at the local or regional level.
- allow the existence or creation of Alaska Native political structures which may effectively represent Alaska Native concerns in their relations with the federal, state and local governments.
- provide for a consistent definition of "Indian Tribe" in Alaska which is uniformly recognized as such by all federal agencies for the purposes of eligibility for programs
- assure that the "Indian Tribes" in Alaska have the same legal status of Indian tribes in the 48 states.
- provide certainty and stability in the relationships between the federal government and Alaska Native tribes.
- accomodate the interests of Alaska Natives at both the community and regional level and in doing so, provide for flexibility of choice of solutions to meet the diverse needs of Alaska Natives.
- provide for democratic and representative Alaska Native tribes.
- in the legislation, provide clear and unambiguous language which does not lend itself to litigation or conflict with federal agencies. This may be accomplished by limiting the discretion of the federal agencies in implementing the legislation and by making the legislation as self-executing as possible.

WHAT IS AN INDIAN TRIBE IN ALASKA

The question of what is an Indian Tribe in Alaska has arisen because of the definition of an Indian Tribe in Alaska under the terms of PL 93-638. The definition included both the regional and village corporations created pursuant to the

Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) as Indian Tribes (25 U.S.C. §450 (b)). This is a legal fiction since neither the regional nor the village corporations were created for tribal governmental purposes. In fact, the ANCSA legislation allowed for the creation of the regional corporations under Alaska state statutes for the purposes of making profits for it's Alaska Native shareholders. On the other hand, the Indian Self-Determination Act provides for federal contracting and grants to enhance the tribal governing cabability of Indian tribes.Therefore it is not substantively consistent to allow for the participation of village and regional corporations created pursuant to ANCSA as "Indian tribes" in Indian Self-Determination type legislation. One could maintain the legal fiction that the ANCSA corporations are Indian Tribes, but since legal fictions are fragile it will naturally lead to internal inconsistencies within the legislation and may lend itself to conflict and litigation. There are at least two other ways in which Congress might deal with this problem. First, Congress might reserve specific rights of regional and village corporation participation in specific federal programs, such as the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) One problem with this solution is that the ANCSA corporations would then have to continuously monitor the enactment of Indian federal legislation to assure that their interests were protected. Another way in which the problem might be resolved is to subsume the interests of the ANCSA corporations to the Alaska

Native tribes in all federal legislation concerning or relating to Indian tribes. This is the model embodied in S. 2046. Under S. 2046, the ANCSA corporations would be "Indian Organizations" which may be recognized for participation in federal programs by the Indian tribe. It may stand in the shoes of the Indian tribe when delegated such authority by the Indian tribe and may be ascribe some or all of the Indian tribes legal rights.

There is little doubt in my mind that ANCSA corporations have an interest in participation in federal programs which relate to their statutory profit-making purpose. This should be done in a way which does not impair their rights of participation, nor impair the effectiveness of the Alaska Native Regional Tribe legislation.

A second level of analysis of what is an Indian Tribe in Alaska is answered in S. 2046. That is, Section 6 (a) of S. 2046 states that the Alaska Native Regional Tribes shall be ascribed the same legal rights as Indian tribes in the 48 states. The Central Council wholeheartedly endorses this concept. It is, however, important to note that this same power exists in Alaska today through the Tlingit and Haida Jurisdictional Act(25 U.S.C. §1211) and the Alaska Indian Reorganization Act (25 U.S.C. §473(a)). S. 2046 is not an expansion of legal powers, it merely makes these powers explicit and reaggregates these powers in Alaska Native

Regional Tribes.

One problem which has been brought to our attention is that some people might read the language in Section 6 (a) as an implied repeal of the mandatory grant of criminal and civil jurisdiction to the State of Alaska under PL 280. In order to clarify that this bill is not intended for that purpose, I suggest the following proviso at the end of Section 6 (a):

> "provided, that nothing in this title shall repeal or otherwise effect PL 83-280 (28 U.S.C. §§ 1360 (a) and 1360 (b))."

This proviso should clarify any abiguities regarding state criminal jurisdiction over Alaska Natives.

GENERAL ANALYSIS OF S. 2046

The Central Council of the Tlingit and Haida Indians of Alaska fully endorses S. 2046. This legislation would conclusively resolve the problems of what and who is an Indian tribe in Alaska and would explicitly vest specific legal rights in the Alaska Native Regional Tribes. It would provide a consistent definition of Indian Tribe for the purposes of eligibility for federal programs. It would also provide stability and certainty in the relations of Alaska Natives as Indian tribes with the federal, state and local governments.

The enactment of federal legislation almost invariably concerns the balancing of competing interests. This proposed

legislation is not unusual in that respect. Involved are the interests of Alaska Natives generally, the entities which are now recognized as Indian tribes in Alaska, the Alaska Native Regional groups, the federal bureaucracy, and the State of Alaska. The immediate task is to create a structure which will give the highest probability that Indian self-determination will be accomplished and yet accomodate the greatest number of interests, consistent with that goal. S. 2046 accomplishes these goals.

S.2046 can accomodate the various interests because it is flexible and can be molded to the diverse needs of Alaska Natives. First, adoption of the Alaska Native Regional Tribal model is option and not mandatory. It may be adopted at any time without time limitations. Secondly, even when a decision is made by any particular group of Alaska Natives, they may allocate political and legal authority according to their own needs. That is, in the course of creating Alaska Native Regional Tribes they may vest little or all of the governing authority in the Alaska Native Regional Tribe. Moreover, they vest substantial authority in their constituent communities if they do desire.

This legislation provides for the maintenance or creation of Alaska Native Regional Tribes which are democratic and representative of Alaska Natives in their geographic areas. Like the federal and state governments, these tribes would

under the principle of majority vote, rather than the 100% required under the BIA implementation of the Indian Self-Determination Act. No Alaska Native will deny that there is dissent among Alaska Natives over what is the right course of action to take at any given moment. That should be the sign of a healthy community. S. 2046 would allow Alaska Natives to organize into federally recognized Alaska Native Regional Tribes in which they could resolve their internal conflicts and still remain one tribal unit. In other words, it provides a mechanism in which Alaska Natives may be internally strong and effectively represent themselves in their relationships with the federal, state and local governments.

In sum, the Central Council of the Tlingit and Haida Indians of Alaska fully supports S. 2046 and hopes that the Congress will enact it into law as expeditiously as possible.

You will find attached an appendix which is a section by section analysis of S. 2046, along with several other suggested amendments of a technical nature.

APPENDIX A

SECTION BY SECTION ANALYSIS OF S.2046

Section 1 -- This section is self-explanatory. It does two things. First, it reiterates the congressional policy of Indian self-determination. Secondly, it states that the purpose of the bill is to create and maintain Alaska Regional Tribal governments. Except in the case of the Tlingit and Haida Central Council and the possible exception of the Tanana Chiefs Conference, the Alaska Native Regional Tribes did not exist before.

Section 2(a) states which entities in Alaska shall be recognized by the federal government as "Indian Tribes." These entities shall be the entities listed in Section 7(a) of the Alaska Native Claims Settlement Act. In the event that the listed entity no longer exists, its successor shall be the Indian tribe. In any event, the successor does not mean the regional corporations incorporated by the Section 7(a) entities pursuant to ANCSA. The notwithstanding language means that previous terminology which defines "Indian Tribe" in Alaska is superseded.

Section 2(b) outlines the extent of the supersession. The change in the definition is not limited to the Indian Self-Determination and Educational Assistance Act. It is intended to provide one consistent definition of Indian Tribe to all

federal legislation which is intended to benefit or relate to Alaska Natives. Secondly, where the new definition is inconsistent with the language and meaning of other federal statutes related to Alaska Natives, it shall be superseded, repealed, or modified to the extent necessary in order to make it consistent with this new definition. The purpose of using three terms to describe the process in order to provide a process in which it is only necessary to change previously existing definitions to the extent that it is necessary to make it consistent with the new definition. That is to say, if only part of the old definition is inconsistent with the new definition of an Indian tribe, only that part shall be changed or repealed. The proviso to this clause is that these changes are effective only to the extent that it is not excepted in the act itself.

In order to be more descriptive of the real situation, the term "Alaska Native Regional Tribe" shall be used instead of the term "Indian Tribe."

Section 3(a) -- This section states the extent of the power ascribed to the newly established Alaska Native Regional Tribes. If a regional association should adopt the form of organization specified in the bill, it will be the preeminent tribal governing body within the geographic boundaries specified in Section 7(a) of ANCSA. This section by its own language presumes that other

tribes may still exist within the same area, but the federal government must recognize the Alaska Native Regional Tribe first for the purposes of all federal legislation relating to Alaska Natives because of their status as Alaska Natives or Alaska Native Tribes.

Section 3(b) -- this section gives the Alaska Native Regional Tribes the power to establish or recognize tribal organization. This means they have the power to create subsidiary tribal organizations to which they may delegate some or all of its legal attributes.

A weakness of this section is that the Alaska Native Regional Tribe should also have the power to withdraw recognition of tribal organizations, once it has extended recognition to a tribal organization. However, it may not be good to extend the same power to disestablish since that might be construed to mean that these Alaska Native Regional Tribes have the power to disestablish the regional corporations created pursuant to ANCSA since the precursors of the Alaska Native Regional Tribes incorporated these corporations.

Section 3(c) establishes the legal meaning of tribal organizations. This means that a tribal organization is any organization which has been controlled, sanctioned or chartered by the

Alaska Native Regional Tribe. Section 3(b) and 3(c) give the Alaska Native Regional Tribe maximum flexibility organizationally.

However, one statement could be added to clarify this flexibility. One could also state at the end of 3(b) that the Alaska Native Regional Tribe also has the power to delegate its authority or legal attributes to an Alaska Native "tribal organization," in full or in part.

Section 4 states that qualifications for membership in the Alaska Native Regional Tribes shall be controlled by its own constitution and by-laws, unless otherwise provided by law. The last proviso would control the Tlingit and Haida membership to the extent that monetary benefits to its Judgment Award is concerned. That is to say, enrollment to the Tlingit and Haida Central Council will continue to be governed by the terms of its Jurisdictional Act. However, as now, it may still control its own membership for the purposes of other political participation, which does not include or relate to the Judgment Award.

Section 5(a) -- This section makes adoption of the Alaska Native Regional tribal structure optional. Alaska Natives within each of the 12 regional areas listed in Section 7(a)

of ANCSA may or may not decide to adopt the structure. It places no time limit on Alaska Natives' ability to legally adopt the structure.

Section 5(a) also states the manner in which the adoption of this structure may occur. There are 4 ways in which an entity may acquire or maintain the status of an Alaska Native Regional Tribe: (1) It may follow the rules and limitations of the Alaska Native Reorganization Act (48 Stat. 1250); (2) It may follow the rules and limitations it creates for itself under its own constitution and by-laws; (3) It may remain organized under a presently existing jurisdictional act. This would specifically cover the Central Council of the Tlingit and Haida Indians of Alaska; (4) It may remain organized under presented existing constitution and by-laws authorized by the Alaska Reorganization Act. This case primarily reflects the Arctic Slope Natives' situation where they already have a regional IRA tribe.

In any event, this section allows the greatest flexibility of organizational structure for Alaska Natives.

Section 5(b) means that the associations or their successors, named in Section 7(a) of ANCSA, may draft and provide for ratification of constitutions and by-laws in accordance with

rules which they may adopt. This seemingly open ended grant of authority is tempered by the fact that each and every regional association listed in Section 7(a) is truly representative and democratic of the Alaska Natives residing in their respective geographic areas.

Secondly, this grant of authority will give Alaska Natives the widest degree of flexibility to determine the allocation of authority between the newly created Alaska Native Regional Tribes and their constituent communities. That is to say, if Alaska Natives wish to vest all of the political authority in the Alaska Natives Regional Tribe it may do so. Conversely, Alaska Natives may decide to vest little authority to the Alaska Native Regional Tribes and most of it to the communities. Almost any configuration of allocation of authority is possible.

Section 5(c) is self-explanatory. The Secretary would be required to allocate Section 104 grant funds in order for the Alaska Native Tribal Associations to organize the Alaska Native Regional Tribes. This section takes notice of the fact that in a practical sense it requires substantial resources to organize new entities.

Section 6(a) is a broad and explicit recognition of the federal Indian rights which will be ascribed to the Alaska Native Regional Tribes. It is critical to note that these

rights are merely a reaggregation of presently existing rights which are vested in Indian Tribes in Alaska. The language transfers presently existing rights to the newly organized Alaska Native Regional Tribes.

Nevertheless, there has been question of whether or not this language might impliedly repeal the mandatory grant of civil and criminal jurisdiction to the State of Alaska under Public Law 280. In order to clarify that this bill is not intended for that purpose, I suggest the following proviso at the end of Section 6:

> "provided, that nothing in this title shall repeal or otherwise effect PL 83-280 (28 USC Sections 1360(a) and 1360(b))."

Section 6(b) provides for the reservation of powers in presently existing and recognized Indian tribes in Alaska. This follows the federal/state constitutional model of reserved powers. That is powers not vested in the Alaska Native Regional Tribes, by Section 5, are reserved to the presently existing Alaska Native tribes. By implication, in the aggregate, Alaska Natives will lose no presently existing legal rights as a consequence of this bill.

Section 6(c) is placed in to assure that no changes in property rights will result as a result of the passage of this bill.

For instance, the lands conveyed to the former reserves pursuant to the ANCSA (Section 19) will be unaffected.

Section 7 -- This section retains the status quo as it relates to the Metlakatla Indian Community. Their present relations with the federal government shall not be modified or otherwise affected by this legislation.

Section 8 mandates a timetable for the implementation of the legislation. This is an indication of the critical problems which are to be solved by the legislation and the need for a timely solution.

Section 9 -- I also suggest a savings clause as Section 9. It would state the following:

> "Section 9 -- To the extent that there is a conflict between any provision of this Act and any other federal laws relating to Alaska Native Tribes, the provisions of this Act shall govern."

Moreover, this legislation shall not affect the implementation of the Alaska Native Claims Settlement Act or any of the rights vested in Alaska Natives by it. This legislation refers to Indian tribes and rights ascribed to those tribes. ANCSA makes no reference to Indian tribes, as such.

Senator HATFIELD. Next is a panel of witnesses: Caroline Nease, Edward Thomas, Joe Demmert, and Sterling Dolima. I believe Gladys Reckley will take the place of Sterling Dolima.

We are happy to welcome you here this morning. I will defer to you to handle the testimony as you wish and in the order that you have selected.

STATEMENT OF EDWARD THOMAS, PRESIDENT, SOUTHEAST ALASKA INDIAN REORGANIZATION ACT COUNCILS

Mr. THOMAS. Thank you, Mr. Chairman.

My name is Edward Thomas. I am president of the Federation of Southeast Alaska Indian Reorganization Act Councils. I have with me today Caroline Nease, who is the vice president of that federation; Secretary Joe Demmert, Jr., and Gladys Reckley, who is here in behalf of Sterling Dolima, village of Angoon.

My testimony today simply relates to the way the particular bill in question, Senate bill 2046—as we feel it relates—to Public Law 93-638. We are supporting the posture that was taken by Morris Thompson when he was Commissioner of the Bureau of Indian Affairs interpreting that the IRA councils at the local level would be identified as tribes in the State of Alaska.

We feel that the Indian Reorganization Act councils are closer to the people and are more of a working body that relates directly with the people on an ongoing basis. There have been some questions as to the effectiveness of the IRA councils. As many of you know, this is a new concept as far as being delegated and recognized by the Federal Government recently. I realize it was in effect quite some time ago, but it did not work to the largest degree.

Since we have reenacted IRA councils under Public Law 93-638, we feel we have accomplished many things on the local level. To amplify this, I would like to share with you some things that we have been able to accomplish in the community of Ketchikan. I am president of that IRA corporation.

We are administering our own educational programs pertaining to Indian education. We have secured $198,000 to better the education situation of native children there. We administer a grant from HEW for $146,000 to help enhance the special education needs of Indian children in that community.

We have also secured an EDA grant of $651,000 to build a building under a local public works program. This will provide a meeting place for members of our community as well as to serve as office space for our tribal government and the other offices such as social services and educational programs.

We have situated an Indian center which serves as an information center, and a place for meetings. We are paying for rent for that through a grant from Public Law 93-638, under the grants program. We have a community center which helps in assisting some of the problems of the local individuals on an ongoing basis. Some of those problems pertain to the Claims Settlement Act. Others are socially inclined, such as social services.

We are conducting an ongoing needs assessment in that community. We are applying for Federal funds on an ongoing basis.

Our committee meets the first Monday of each month to give a continuity of meeting and input from the local community so that they can participate in their government.

We question some of the ramifications of this particular bill simply because they are not clearly defined in the bill. Before I get into that, we would like to know why we are getting into the regional approach, after determination had been made previously by Morris Thompson.

I think, when we start devising a government which is starting at the regional level and working back down to the people, we are where we started before. We would like to see a government which is in reverse—where the people themselves decide on the governmental approach. Are we going to go to regional? Then I think they should decide on that for themselves through an election—a referendum of some sort.

We feel that these kinds of bills presented are to expedite programs to the people. In some ways that is an important thing. However, what are we going to do in order to expedite things? Are we going to sacrifice the community governmental sovereignties? Are we going to give up individual rights for people to participate in their government on an ongoing basis? Are we going to form a kind of government which will be dictatorial down to the people, rather than a government which will be responsible to the people?

Generally we feel that removing the governmental body from the people at the local level greatly reduces the intent of Public Law 93–638.

Section 5 of this particular act says that, at their option, regional governments will go into the Alaska Native Reorganization Act. We do not feel that it should be the option of regional corporations—nonprofit or otherwise. We feel it should be the people's choice to choose at their option the kind of government they want.

As far as consenting resolutions, we feel that these are a very important part of our input into interregional structure. Too often, when we get into the nonconsenting kind of resolution, the resolutions are sent to an individual in a community, directly related to the regional corporations and are not dealt with by the people in that community. As a result, they will not ever get acted on; but they simply go either nonconsented or the action will pass without any consent from the community.

These are things that people at the present time need some training in. However, I think that most communities, particularly in southeast Alaska, there is an overwhelming majority, simply by the conference we had, people feel that they themselves do, in fact, act on things that are presented to them, if it is presented to the people who are involved on a local level.

We feel that, in some instances, regional kinds of approaches are quite necessary. In some cases it is more economical. However, we feel also that there should be a direct kind of provision written into any law giving that avenue of input back to the community.

In summary, any definition of tribe in the State of Alaska—particularly now, after so many different concerns and interests expressed—should be done only after well-publicized hearings in Alaska villages and then to have people themselves decide, through an election or some kind of referendum. A government "of, by, and for the people" should apply in Indian country as well as the rest of the Nation.

I do welcome this opportunity to present my testimony to this committee. With due respect to the committee, I have differences to having the hearing in Washington, D.C. It is very difficult for people from Alaska, on an individual basis, to present their own feelings on things which are very important to them.

Just to take a look around the room, the people who are testifying are almost entirely regionally sponsored. Individual Alaskans from the village do not have that opportunity; traditionally, everything has been done through the regions.

Once again, I appreciate and am greatly honored to be able to testify before this committee. Thank you.

Senator HATFIELD. Mr. Thomas, we are very happy to have you here and your colleagues.

As you know, we plan to make it easier for more people to speak their piece in this whole consideration by having townhall type meetings in the State of Alaska, where we can invite many people to participate who could not come to Washington to do so.

Let me see if I understand the general structure of your council. First of all: Who are the member groups within your council? In other words: What is your constituent body? Who do you represent and how do they become a part of your council organization?

Mr. THOMAS. Under the bylaws of our particular chapter in Ketchikan, those members who reside in Ketchikan are automatically represented by the IRA council.

Senator HATFIELD. Do they have to take some kind of a step to indicate their desire to be represented? Is there some affirmative action on their part to be included in your council?

Mr. THOMAS. Not by the strength of the bylaws. It is just simply through residence, just like any other person and his government.

Senator HATFIELD. They are automatically represented by your own existence, in other words?

Mr. THOMAS. Right.

Senator HATFIELD. Then you report back, You have a flow of information.

Mr. THOMAS. We present a monthly newsletter in the community of Ketchikan.

Senator HATFIELD. How do you assess their support for positions that you take? How do your positions come into being? Do you determine them within the council framework itself? Or do you have sort of an assessment of opinion within your member groups?

Mr. THOMAS. I am also president of the local Alaskan Brotherhood Council. I am also vice president of the local Tlingit and Haida chapter. These issues are brought up to the particular meetings at different times. They are advertised as being part of the agenda.

We do have a problem—I guess in all of Indian country—of people trying to give a kind of support to documents that they know so little about. I think that is one of the reasons why—particularly in this bill—we do not have the strong testimony that some of the regional people do. We feel that our interests are really important to the people there.

Senator HATFIELD. But you are persuaded that you do speak for the members of your council in terms of your positions on various and sundry issues?

Mr. THOMAS. Yes.

Senator HATFIELD. Do other members of the panel wish to make a statement?

STATEMENT OF CAROLINE NEASE, ANGOON INDIAN REORGANIZATION ACT COUNCIL

Ms. NEASE. Mr. Chairman, my name is Caroline Nease. I am from Angoon. I welcome this opportunity to be able to testify.

On behalf of the Angoon IRA Council, I was designated to come and speak. We are opposed to bill S. 2046 for the following reasons.

We believe that self-government starts on the local level in our community. We want to retain this privilege. Our council has also been able to receive grants under Indian Self-Determination Act, which we are using to strengthen our own tribal government and therefore be able to boost our economy and maintain local control in our government and to start self-employment in our community. Then our people will not have to live on welfare or food stamps.

In Angoon we have had very good success with our Indian Self-Determination Act moneys. This last year we have been able to acquire a public works grant for a community service building in the amount of $415,000. We are also in the process of starting an aquaculture program in our local area.

These are the types of things that we have been able to do with our Indian Self-Determination Act grant funds.

In Angoon the people are afraid that, if S. 2046 is allowed to become law, these types of benefits will no longer be available for our own community development. In the past, we have seen funds filter through to our Tlingit and Haida Central Council from different Federal agencies. We have heard the dollar amounts that the Tlingit and Haida Council got. To try to figure what the local communities get out of these funds, we are unable to determine what happens to the dollar amounts that have been filtered down through the Tlingit and Haida Council.

These funds go through so many layers that, by the time the village has any opportunity whatsoever to apply for them, there is not much left.

The communities in southeast Alaska are unique in one respect. They are not very close together—a lot of them. Therefore, the people in the communities themselves believe that self-government and their boosting their own economies is something that should be left to the people in the communities. They are the ones that are responsible for themselves in their community and their children.

The regional is so far removed that it is quite hard to get adequate representation from the regionals down to the villages.

We feel in Angoon that this has been a problem in the past. In order to strengthen our tribal governments and to boost our own economies and to get ourselves employment, we feel that if S. 2046 is allowed to become law, we will lose these advantages. We believe very strongly in Indian self-determination on the local level.

Thank you.

Senator HATFIELD. Thank you.

Who is next, Mr. Thomas?

Mr. THOMAS. Gladys Reckley.

STATEMENT OF GLADYS RECKLEY, KOOTZNOOWOO, INC., ANGOON

Ms. RECKLEY. Mr. Chairman, my name is Gladys Reckley. I represent Kootznoowoo, Inc., a village corporation which is a profitmaking corporation for Angoon, Alaska.

Thank you for permitting me to speak. Sterling Dolima represents the corporation and planned to be here, but he was unavoidably detained in Seattle.

We have generally wanted to speak to support the nonprofit corporation position on the bill, which is in opposition; and also to bring out another point from the standpoint of the profitmaking corporation.

The purpose of this legislation is to clarify the definition of what constitutes a tribe and thus remove impediments in speedy delivery of programs and services to Alaska's Natives. However, Kootznoowoo feels that such a consolidation would stymie the initiative of the native village corporations and would possibly hamstring the economic base for their shareholders.

This concern stems from the fact that a redefinition of a tribe, so that a regional entity may be the contracting agency for delivery of Federal programs and services—the recognition that is now given tribes—the village corporations would be nullified.

For instance: Would the Indian village corporation be eligible to apply directly for a loan through the Farmers Home Administration's guaranteed loan program? Or would it be required to go through this regional entity?

We are now in the process of preparing a loan application for the purchase of a freezer ship which the village corporation, Angoon Fisheries, currently has under lease. The freezer ship was brought to Angoon this past summer. Because of this, they were able to employ all in the community who wanted a job in processing salmon caught by the fishing boats. Not only were they able to employ Angoon shareholders, but they were able to make a profit through the corporation by being able to process their own fish.

The corporation has made preliminary investigations into the Farmers Home Administration loan guarantee program. We have learned that they are eligible to apply because they are recognized as a tribe.

The concern is that, if the language of S. 2046 were enacted, it would supersede the Claims Settlement Act, which recognizes the village corporation. The regional tribes would then have the power to establish and to recognize tribal organizations. The wording "tribal organizations" would possibly nullify their being able to apply for loans where such loan programs are defined as pertaining to tribal groups.

This language seems to grant the Alaska Native Regional Tribe more control over native villages than was ever envisioned. So, in going to this, it strips the village corporation of authority to act independently toward building a strong economic base for their shareholders.

The real promise of Indian self-determination, that is contained in the law, would be taken away before it has been fully implemented.

The fear of the Angoon profitmaking arm would be that they would be shut out of loan programs such as the Farmers Home Administration because of the eligibility standard. We feel that possibly the

village corporations would be giving up more than they would be receiving under this redefinition. Therefore, they are opposed at this time to passage of S. 2046 in its present form.

Mr. Chairman, I would like to request that we be able to permit them to present a written statement for the record.

Senator HATFIELD. Certainly; that would be welcome. We will keep the record open for this hearing for 30 days.

Ms. RECKLEY. Thank you, Mr. Chairman.

Senator HATFIELD. On page 2 of the bill, section 3(c), beginning on line 18: How do you interpret that section as it relates to the matter of providing a village and regional corporation with the option of becoming a tribal organization chartered by the regional tribe rather than the State of Alaska? You may wish to study that a bit and submit an interpretation as to how you read that.

In light of your testimony, I think that might be a matter that you would want to study to see how you view that.

Ms. RECKLEY. Yes; we will do that.

Senator HATFIELD. Thank you very much.

Mr. THOMAS. Mr. Chairman, I have one point that I would like to share with you.

Even within our own region, we have some discrepancies as far as identification of people. An example is that we have village profit-making corporations formed under the Claims Settlement Act. We have also some communities who have not been included in that act. We have already witnessed in those communities who are not included in the Claims Settlement Act that legislation based around the Claims Settlement Act is oftentimes detrimental to those actions in that community.

We are very cautious when we see—particularly in Ketchikan which is not included in the Claims Settlement Act—ramifications that possibly could arise from basing a particular portion of the law around the Claims Settlement Act when we are, in fact, not fully involved as other communities are involved.

Senator HATFIELD. Thank you.

I think everyone has spoken except Mr. Demmert. Do you wish to make a statement?

Mr. DEMMERT. Mr. Chairman, my comments were directed to a companion bill relating to Tlingit and Haida. Since that bill is not before you at the present time, I will reserve my comments until such time as you have it before you.

Senator HATFIELD. We will be happy to hear from you at that time.

Thank you very much for your appearance here this morning. It has been helpful to the committee.

I would like now to invite the next panel of witnesses: Mr. Joe Nataro, Glenn Fredericks, and Dr. James McAlear.

Mr. MCALEAR. Mr. Chairman, I was originally scheduled to testify; Anna McAlear will testify. So, I will not present any testimony.

Senator HATFIELD. We will be happy to hear from you.

STATEMENT OF EBEN HOPSON, MAYOR, NORTH SLOPE BOROUGH, BARROW, ALASKA; PRESENTED BY ANNA McALEAR

Ms. MCALEAR. Mr. Chairman, my name is Anna McAlear. I am here on behalf of Mayor Hopson of the North Slope Borough. He sends

his regrets that he is unable to appear in person due to the pressure of his official duties at this time.

The need for legislation to simplify the administration of funds for Indian self-determination, health, et cetera, in Alaska is understandable. It is also fair for Alaska Natives to enjoy some of the advantages accorded to Indians by treaty in the lower 48 States.

Some of these advantages to Indians on reservations are the power to make laws and to enforce them, the power to levy taxes, the power to, in brief, act as almost an independent nation often not subject to some of the laws of the State in which they reside. This tribal sovereignty appears to be a key issue at this time. Section 6 of the bill appears to grant this type of tribal sovereignty to the regional tribes as defined in the bill.

In the State of Alaska, a major portion of the population and a substantial land area is within the jurisdiction of borough governments which are equivalent to municipal or county governments but, unlike counties in the lower 48 States, are not usually contiguous at their boundaries. These boroughs have the responsibilities under State law for the making and enforcing of local ordinances, administration of police and fire departments, schools, capital improvement programs, levying and collecting taxes, et cetera.

All of the boroughs in Alaska fall within 1 of the 12 regional tribes created by this bill. The North Slope Borough is unique not only in being the largest in geographic area in the State but also in that its boundaries coincide with those of the Arctic Slope Regional Tribe. The language in section 6 therefore would appear to go beyond the establishment of an agency to administer Indian money to constitute a conflict of jurisdiction between the Arctic Slope Regional Tribe and the North Slope Borough government established under the laws of the State of Alaska.

It would be out of the question for the Cook Inlet Regional Tribe to gain jurisdiction of Anchorage through this bill; however, the voting members of the Arctic Slope Regional Tribe are the same in general for the North Slope Borough.

I have not received assurances from anyone that this bill would not create a conflict in my jurisdiction.

It is reasonable for the nonprofit branch of the Arctic Slope Regional Corp. to contract with the Federal Government to administer funds under the Indian Self-Determination Act and for similar purposes; however, the assumption of the functions of the North Slope Borough as a legally constituted government could result in a chaotic situation.

It is essential, therefore, that the bill be modified as to clearly exclude any such possibility of conflict of jurisdiction with the borough governments of the State and the regional tribes.

Section 6 should have subsection (d): "Nothing in this act should apply to borough governments established under the laws of the State of Alaska."

Several aspects of the bill seem rather difficult to interpret in terms of what their actual effects might be on Alaska Native political organizations. There would appear to be a number of conflicts with other acts and it would be difficult to imagine that it could become law in its present form.

The originators of the bill should perhaps be encouraged to produce a version which might address the problem of administering Indian money in a more straightforward and forthright manner.

Senator HATFIELD. Thank you very much.

STATEMENT OF GLENN FREDERICKS, PRESIDENT, KUSKOWIM NATIVE ASSOCIATION

Mr. FREDERICKS. Mr. Chairman, my name is Glenn Fredericks. I am from Aniak. I am president of the Kuskowim Native Association, consisting of 12 villages.

We are opposed to the bill because of the fact that we kind of agree with the southeast people that funds now going to the regional level do not filter down to the local level.

The Kuskowim Native Association has a board of directors—one from each village. Our job is to look for grants. Right now we handle roughly $600,000 worth of grants for the villages. The villages give us authority by a resolution for Johnson-O'Malley funds, for instance. We go to villages and help them prepare a budget, travel expenses, and so forth. The money is given directly to the villages. This is self-government.

I believe these hearings in the District of Columbia should be—Alaska's villages should be heard from by this committee. We had a meeting in Bethel the other day concerning this bill. I have copies of the resolution. It was sent to Senators Stevens and Gravel.

Out of the 57 villages, 27 attended. They recommended a field meeting be held in Alaska.

The programs we administer, we administer for the villages. They are the sole contracting agents. We act for them to secure grants and keep the books for them and so forth. I think this is how this thing should work. The villages are recognized. This is where it is needed the most.

Most all the testimony here was from the regional level. I think it is the committee's responsibility to hear from the people and the villages involved.

Senator HATFIELD. I would like to follow up with what you have just said concerning the proposed field hearings in the State of Alaska. There have been a number of concerns expressed about maintaining the viability of the villages, the village councils, the village governments, and so forth.

There is in the process at this time some amendments, that may be considered, to this bill seeking to do this very thing that you are concerned about. We plan to have them circulated so that you can look at them and review them. Then, when we have those field hearings, you will be able to see what some of the alternatives or some of the options might be to strengthen the bill or to revise the bill to meet some of your concerns.

I want to assure you—and I speak for the chairman and all members of the committee when I say this—that this committee has no desire to impose upon your programs or bills or laws which are not of your own making, in a sense. The whole concept of this committee evolved out of the American Indian Policy Review Commission, which was to bring greater self-determination and greater opportunity for Indian

and Native Americans to participate and have a very strong hand in the determination of policies and programs upon which the Federal Government embarks or sustains.

So, we want you to know that we welcome your testimony and those questions you raise in your testimony. You are certainly in a much better position than we are to make assessments and evaluations of how you feel the impact of this would be. What we are seeking to do is to strengthen the day-to-day life and undergird that day-to-day ife with sources where your self-determination gives you the independence and support you seek.

Mr. FREDERICKS. Thank you, Senator.

Senator HATFIELD. I believe Mr. Nataro is next.

STATEMENT OF JOE NATARO, DEPUTY DIRECTOR, COOK INLET NATIVE ASSOCIATION

Mr. NATARO. Mr. Chairman, my name is Joe Nataro. I am the deputy director of Cook Inlet Native Association.

I have submitted a resolution from our board of directors in support of Senate bill 2046. I will not read it at this time. But I would like to say that we have been administering grants and contracts for over 12 years that involved millions of dollars.

It is not our intention to limit the villages whatsoever in any way. I do not believe there is any region that would want that.

But we have heard from villagers that we are not providing enough services. They would like us to increase those services and meet unmet needs which Federal agencies are not able to meet, for whatever reasons.

Since the inception of the Indian Self-Determination and Education Assistance Act, we have had a multitude of administrative entanglements, problems, and what have you; it is ridiculous. We can no longer tolerate this kind of thing. It is impeding our organizations and our effectiveness.

We really feel that the intent of Public Law 93-638 has not been fulfilled by our Federal agencies in Alaska; namely, the Bureau of Indian Affairs and Indian Health Service. These agencies are utilizing the most narrow interpretation of the law as possible. It is being twisted and used for the purpose of retarding our tribal development, and nothing more.

The Federal agencies, under the banner of "Indian self-determination," have increased their staff and capabilities while, by the same token, impeding our Public Law 93-638 contracting process.

The confusion over the law is also causing a rift with some of our villages as well as having a potential collision course with our regional profit corporation over this.

Under Public Law 93-638, our profitmaking corporations have inadvertently been designated as regional tribes.

On the one hand, we have the responsibility for social service delivery programs on the regional level. On the other hand, those profit arms have the official authority. This is not only a very difficult and cumbersome situation, but it is also very dangerous.

This oversight has created for us an administrative nightmare in our attempt to implement the law. The Federal bureaucracies are fully taking advantage of the situation to the point of making a mockery of

the Indian Self-Determination and Education Assistance law. This is not Indian self-determination; it is bureaucratic self-determination at its best.

It is ludicrous for us to imagine, for example, that ITT, Bell Telephone, or any other profitmaking enterprise could be considered a regional tribe. Yet, our profitmaking corporations have been so designated. And that is fine.

Clearly, Senate bill 2046 is not a desire on our part to change the intent of the law of Indian self-determination; but merely to clarify and facilitate that intent, thereby allowing us to implement Indian self-determination as intended by the Congress.

That is the extent of my statement.

Senator HATFIELD. Thank you, Mr. Nataro.

All of you have made a contribution. We are very happy to have heard from you this hearing.

Is there anyone else before I conclude?

Mr. MCALEAR. Mr. Chairman, I would like to comment that the North Slope Borough would also welcome field hearings in Alaska. The borough will be submitting a formal written statement within the time period you designated. Thank you.

Senator HATFIELD. We will welcome any other statements or extended testimony that you wish to present to this committee. As I indicated earlier, we will keep the record open for 30 days to receive such written testimony.

We will be in touch with you and others when the schedule is adopted for the field hearings in Alaska. Of course, we will welcome further participation at that time.

We appreciate the distance you have traveled. You have traveled a great distance. It is very much appreciated by this committee.

I can assure you that your words and counsel will be very important in our deliberations.

Thank you.

Is there anyone else here who wishes to be heard this morning?

[No response.]

If not, the hearing is adjourned.

[Whereupon, at 11:35 a.m., the hearing was adjourned.]

○